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10/061,476	01/31/2002	Michael L. Kleven	W2100/262177	3701

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EXAMINER
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SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2623

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/061,476	<b>Applicant(s)</b> KLEVEN ET AL.	
	<b>Examiner</b> ANNAN Q. SHANG	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/01/07</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/08/08 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claims 1-19, rejected under 35 U.S.C. 102(b) as being anticipated by **Allen et al (5,892,535)** and claim 20 rejected under 35 U.S.C. 103(a) as being unpatentable over **Allen et al (5,892,535)** and in view of **Medin (2004/0205339)**, applicant amends claims and argues that Allen does not describe the creation of new content and a control program that directs the production of new content (see page 7 of 9, of Applicant's Remarks).

In response, Examiner disagrees. Examiner notes Applicant's argues, however, Allen receives and decodes various media from various networks and encodes and combines the media to generate a new content in an appropriate format for distribution to subscribers over distribution network 216 (figs.1-7, col.15, lines 17-48, line 66-col.16,

line 15, line 45-col.17, line 32, col.19, lines 3-36 and col.24, line 17-col.25, line 1+).

Allen teaches that the system permits the received content and locally stored content (video, graphical, and/or textual data) to be combined and transmitted in accordance with a schedule. Allen clearly teaches a control program received from a host which controls and combines that content and transmits as transport stream packets to subscribers (col.15, lines 17-48, line 66-col.16, line 15, line 45-col.17, line 32, col.19, lines 3-36 and col.24, line 17-col.25, line 1+). Hence the amended claims limitations do not overcome the prior arts of record. The amendment to all the claims necessitated the new ground(s) of rejection discussed below. **This office action is made final.**

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by **Allen et al (5,892,535)**.

As to claim 1, note the **Allen** reference figures 2-10, discloses flexible, configurable hierarchical system for distributing programming and further discloses a system for creating new content from a plurality of source content, comprising:

A first decoder (figs.2, 6-10, 210/206), for receiving and decoding at least one digital source content signal as a primary signal; at least one second decoder (210/206 or 202/204/206), for receiving and decoding at least one other source content (Media Local Server 'MLS' 202) as a secondary signal (col.15, line 17-48, col.16, line 21-col.17, line 51);

Storage circuitry (of 202/206N), for storing at least decode source content from the decoders (col.17, lines 8-50 and col.18, line 23-col.19, line 36);

Graphics processing circuitry (Processors 202/206) coupled to the storage circuitry, for producing new content using the source content by transforming and combining the source content from the decoders to produce the new content (figs.1-7, col.15, lines 17-48, col.17, lines 8-50, col.18, line 23-col.19, line 36 and col.24, line 17-col.25, line 1+);

At least one first encoder (of 206N) for encoding at least some of the new content into digital format for output to a distribution system; at least one second encoder (206N) for encoding some of the new content output to the distribution system (col.21, line 3-col.25, line 1+);

A clock (722) for controlling timing of at least one of the first and second decoders and at least one of the first and second encoders; and control functionality for controlling production of the new content for output to the distribution system, as directed by control program received from a host, where a plurality of systems carrying out the process are adapted to display national programming and programming based on new content adapted for subset of users of the national programming, at least

partially under control of the host (col.16, line 45-col.17, line 50, col.24, line 3-col.25, line 1+ and col.26, line 23-col.28, line 1+).

As to claims 2-3, Allen further discloses where the control functionality also receives control signals from a locally stored micro-program (col.26, line 23-col.28, line 1+).

As to claims 4-8, Allen further discloses where the control functionality controls production of new content that corresponds to a geographic area, to members selected from, characteristics, preference and interests, to one or more markets where some of the source content is addressed and non-addressed (col.8, line 62-col.9, line 52 and col.16, line 63-col.17, line 51).

As to claims 9-11, Allen further discloses a second decoder receives source content from the host and a second decoder to receive content from the local source and further accommodates analog video signals and at least one of the encoder is produces analog signals (col.15, line 17-48, col.16, line 21-col.17, line 51 and col.21, line 3-col.25, line 1+);

As to claim 12, the claimed "A process for creating new content from source content..." is composed of the same structural elements that were discussed with respect to the rejection of claim 1.

As to claim 13, Allen further discloses where the process identifies and uses only source content and control signals having predetermined addressing (col.8, line 62-col.9, line 52, col.16, line 63-col.17, line 51 and col.30, line 13-col.31, line 1+).

Claim 14 is met as previously discussed with respect to claim 3.

Claims 15-17 are met as previously discussed with respect to claims 4-8.

As to claims 18-19, Allen further discloses where the control of the host is real time control and some of the encoding and decoding happens in real time as governed by a clock (col.24, line 3-col.25, line 1+ and col.26, line 23-col.28, line 1+).

As to claim 23, Allen further discloses where the system is located in a head end of a cable TV network and the distribution system delivers the new content to a plurality of end units associated with the head end (figs.1-2, col.15, lines 17-61, col.16, line 45+, col.29, line 16-64 and col.30, line 13-col.31, line 1+).

As to claim 24, Allen further disclose where at least one digital source content signal is received from the host and the control program is received from the host asynchronously from the at least one digital source content signal (col.15, lines 17-61, col.16, line 45+, col.29, line 16-64 and col.30, line 13-col.31, line 1+).

As to claim 25, Allen further discloses where the control signal is received from the host asynchronously from the first digital content signal )col.15, lines 17-61, col.16, line 45+, col.29, line 16-64 and col.30, line 13-col.31, line 1+)

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Allen et al (5,892,535)** and in view of **Medin (2004/0205339)**.

As to claim 20, note the **Allen** reference figures 1-00, discloses flexible, configurable hierarchical system for distributing programming and further discloses a system for creating new content from a plurality of source content, comprising:

Decoders (figs.2, 6-10, 210/206), for receiving first digital content signal from a host and receiving a second content signal from a non-host, decoding the first and second content signals, transforming and combining components of the first content and the second content signal into video content (col.15, line 17-48, col.16, line 21-col.17, line 51);

Graphics processing circuitry (Processors 202/206), according to control signals which are generate by a control program received from the host, processing and organizing the video content form the new content and encoding the new content for distribution on a cable television system and a plurality of systems located in a plurality of head ends in a cable television system carrying out the process display national programming and programming based on new content which for subset of users of the national programming, based on the new content for users of national programming in the geographical area of the cable television system (col.16, line 45-col.17, line 50, col.18, line 23-col.19, line 36, col.21, line 3-col.25, line 1+, col.24, line 3-col.25, line 1+ and col.26, line 23-col.28, line 1+);

Allen is silent to where the new content includes local weather conditions for the users of national programming in the geographical area.



However, note the **Medin** reference figs.1-4, discloses system and method for delivering multimedia services which includes local weather conditions customizes per region or locality (page 2, [0032-0035], [0047] and [0104-0108]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Medin into the system of Allen to target weather reports to various localities or geographical areas to inform users in advance, up-coming weather conditions.

As to claim 21, Allen further discloses where the control program is locally stored (col.15, lines 17-61, col.16, line 45+, col.29, line 16-64 and col.30, line 13-col.31, line 1+).

As to claim 22, Allen further discloses where the control program is received from the host asynchronously from the first digital content (col.15, lines 17-61, col.16, line 45+, col.29, line 16-64 and col.30, line 13-col.31, line 1+).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative or access** to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/

Primary Examiner, Art Unit 2623

**Annan Q. Shang**